

R E M A R K S / A R G U M E N T S

The Examiner has kindly withdrawn a number of grounds of rejection and indicated that there are claims that are allowable following typographical amendment. Certain claims currently stand rejected on two grounds, either as being indefinite under 35 U.S.C. §112, or as being anticipated under 35 U.S.C. §102. These rejections will be treated in turn.

Claims 1-9, 11-23, 25-30, 32-36 and 42-50 have been rejected under § 112 of the Patent Statute. The Examiner has noted that with respect to claims 1, 13, 27, 42, and 48-50 it is not clear whether the "Shelf assembly" is being claimed or the shelf assembly in combination with the "bay width." The Examiner then suggests "adapted to be" language could overcome this rejection. Applicants have amended 1, 13, 27, 42, and 48-50 on the Examiner's suggestion to include the language "adapted to be connected with vertical supports." Thus the rejection of the aforementioned claims is overcome by this amendment submitted only for the purpose of clarification of the claim language, and not to overcome an art rejection.

It is noted that claims 1 and 6 have been rejected under §103 of the Patent Statute, the Examiner citing Buffington, et al., U. S. Patent No. 4,583,648 (Buffington, et al.) in view of Merl, U. S. Patent No. 5,133,463 (Merl) and Trulaske, Sr., U. S. Patent No. 4,890, 746 (Trulaske, Sr.). It is noted that claims 2-4 and 42-46 have been rejected under § 103 of the Patent Statute as being unpatentable over Buffington et al., in view of Merl and Trulaske, Sr. as applied to claims 1 and 6 and further in view of Garfinkle, U. S. Patent 4,881,707, and as being unpatentable over Buffington, et al., in view of Merl and Trulaske, Sr. as applied to claims 1 and 6 and further in view of Butcher, et al, U. S. Patent No. 5,375,357.

Claims 42-47 are newly rejected under §102 as being anticipated by Baumgart, U.S. Patent No. 2,845,729. The Applicants draw the Examiner's attention to the total lack in the Baumgart patent of sign engaging surface in compensating correspondence with predetermined angles, nor a rearwardly disposed semi-circular periphery engageable with the wall forming rods. Nonetheless, in order to materially advance prosecution to allowance, Applicants have canceled claims 42-47, reserving the right to pursue said claims in a later filed continuing application.

Applicants note that the Examiner has withdrawn a number of previous rejections without comment. It is noted in response to Applicant's remarks, that the rejection of claims 5, 7 and 8 under § 103 of the Patent Statute as being unpatentable over Buffington et al., in view of Merl and Trulaske, Sr. as applied to claims 1 and 6 and further in view of R. G. Chesley, U. S. Patent No. 3,194,528 (Chesley) is withdrawn. It is noted in response to Applicants' remarks, that the rejection of claims 9 and 48 under § 103 of the Patent Statute as being unpatentable over

Buffington et al., in view of Merl and Trulaske, Sr. as applied to claims 1 and 6 and further in view of Loew, U. S. Patent No. 5,860,537 (Loew) is withdrawn. It is noted in response to Applicant's remarks, that the rejection of claim 11 under § 103 of the Patent Statute as being unpatentable over Buffington et al., in view of Merl and Trulaske, Sr. as applied to claims 1 and 6 and further in view of Howard, et al., U. S. Patent No. 4,531,311 (Howard, et al) has been withdrawn.

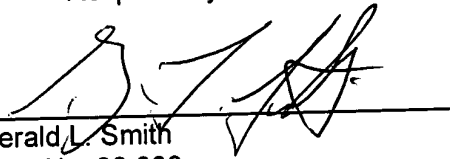
It is further noted that in response to Applicant's remarks, that the rejection of claim 12 under § 103 of the Patent Statute as being unpatentable over Buffington et al., in view of Merl and Trulaske, Sr. as applied to claims 1 and 6 and further in view of Sainato, U. S. Patent No. 4,798,013 (Sainato) has been withdrawn. It is noted in response to Applicant's remarks, that the rejection of claims 13-17 under the doctrine of double patenting has been withdrawn. Applicants appreciate the Examiner's thoughtful consideration of the presented arguments and supporting affidavits, and acknowledge the Examiner's withdrawal of the previous rejections.

The Examiner has indicated that claims 1-9, 11-23, 25-30, 32-36 and 48-50 are allowable if amended to overcome the rejection under 35 U.S.C. §112. As Applicants have amended the claims upon the suggestion of the Examiner, those claims are now allowable. Applicants have canceled all claims rejected in view of cited art. Thus, no impediments to allowance remain. Thus, early passage of the application to full allowance and issue is requested.

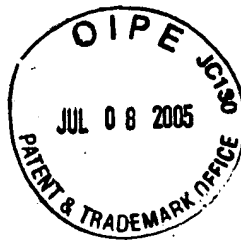
Respectfully submitted,

Date: _____

5 July 05


Gerald L. Smith
Reg. No. 22,009
MUELLER AND SMITH, L.P.A.
MUELLER-SMITH BUILDING
7700 Rivers Edge Drive
Columbus, Ohio 43235-1355
Tel.: 614-436-0600
Fax: 614-436-0057
email: jsmith@muellersmith.com

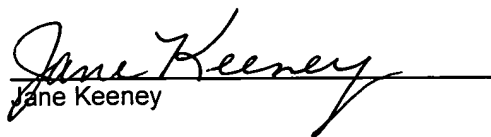
Appln. No. 09/954,464
Amendment dated July 5, 2005
Reply to Office Action of April 4, 2005



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited on July 5, 2005 with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Jane Keeney